

SERVICE DATE - APRIL 10, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 189X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—
IN EAU CLAIRE COUNTY, WI

Decided: April 9, 2003

By decision and notice of interim trail use or abandonment (NITU) served on August 30, 2002, a 180-day period was authorized for the Wisconsin Department of Transportation (WisDOT), on behalf of the City of Eau Claire, WI (CECW), to negotiate an interim trail use rail/banking agreement with Union Pacific Railroad Company (UP) for a 1.65-mile line of railroad known as the Eau Claire Industrial Lead, extending between milepost 0.00 near N. Barstow Street and milepost 1.65 south of Truax Boulevard, in Eau Claire, Eau Claire County, WI. The 180-day negotiating period expired on February 26, 2003.

On April 3, 2003, WisDOT, on behalf of CECW, filed a request for an extension of the negotiating period for an additional 180 days. WisDOT states that CECW and UP have had initial discussions and had some initial concerns, but that they are now willing to continue discussions. WisDOT states that the abandonment has not been consummated. By letter filed on April 4, 2003, UP advised that it supports a 180-day extension and is willing to continue negotiations with CECW.

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended.¹ Under the circumstances here, an extension of the negotiating period is warranted. See Birt v. STB, 90 F.3d 580, 588-90 (D.C. Cir. 1996); Grantwood Village v. Missouri Pac. R.R. Co., 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). Accordingly, the NITU negotiating period will be extended for an additional 180 days from February 26, 2003, until August 25, 2003.

This action will not significantly affect either the quality of the human environment or the

¹ See Rail Abandonments—Supplemental Trails Act Procedures, 4 I.C.C.2d 152, 157-58 (1987); Missouri Pacific Railroad Company—Abandonment in OK, Docket No. AB-3 (Sub-No. 63) (ICC served Jan. 2, 1990); and SSW Ry. Co.—Aband.—In Smith and Cherokee Counties, TX, 9 I.C.C.2d 406 (1992).

conservation of energy resources.

It is ordered:

1. The negotiating period under the NITU is extended until August 25, 2003.
2. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams
Secretary